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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,252	01/31/2002	Massimiliano Antonio Poletto	12221-012001	2792

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EXAMINER

NALVEN, ANDREW L

ART UNIT PAPER NUMBER

2134

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/066,252

Applicant(s)

POLETTI ET AL.

Examiner

Andrew L. Nalven

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 27-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Claims 1-25 and 27-34 are pending.

Examiner notes that the original presentation of the claims provided no claim 26.

### ***Response to Arguments***

1. Applicant's arguments filed 13 February 2006 have been fully considered but are moot in view of the new grounds of rejection.

### ***Claim Objections***

2. Claims 1 and 11 are objected to because of the following informalities:
3. Regarding claim 1, the cited claim contains the limitation "between the data center a network." Examiner believes the limitation was intended to read "between the data center and a network ..." and has interpreted the limitation as such for the remainder of the office action
4. Regarding claim 11, the cited claim contains the limitation "so that the provisioned examines." Examiner believes the limitation was intended to read, "so that the provisioned monitor examines..." and has interpreted the limitation as such for the remainder of the office action. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-25 and 27-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Ioele et al US Patent No. 7,007,299.
2. With regards to claim 1, Ioele teaches a device, coupled to physical links between the data center and a network, with the device disposed to examine traffic entering or leaving that data center on the coupled physical links (Ioele, Figure 1, column 3 lines 25-35, column 4 lines 35-37) and collect statistical information on packets that are sent between a network and the data center for a plurality of customers by examining traffic as if the device was disposed on links that are downstream from the links that the provisioned monitor is on (Ioele, column 6 lines 31-46).
3. With regards to claims 2 and 7, Ioele teaches the monitoring device coupled to the control center through a dedicated private network (Ioele, Figure 1 Item 140).

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4. With regards to claim 3, loele teaches a communication process that communicates statistics with the control center and which receives queries or instructions from the control center (loele, column 7 lines 37-64).
5. With regards to claims 4, 8, 21, 28, 29-30, and 34 loele teaches a process to install filters to thwart denial of service attacks by removing network traffic that is deemed part of an attack (loele, column 4 lines 7-20).
6. With regards to claims 5, 9, 27, loele teaches the monitoring device being a data collector device (loele, column 7 lines 37-64).
7. With regards to claim 6, loele teaches a process to aggregate traffic from the various links and to produce logs and detection heuristics (loele, column 7 lines 40-50).
8. With regards to claim 10, loele teaches the collecting occurring for inbound and outbound traffic (loele, column 6 lines 31-62).
9. With regards to claims 11, 13-14, 16, 24, loele teaches a provisioned monitor placed on selected links in the data center so that the provisioned monitor examines traffic entering or leaving the data center on the selected links (loele, Figure 1, column 3 lines 25-35, column 4 lines 35-37) and collect statistical information for a plurality of provisioned customers which are on links that are downstream from links that the provisioned monitor is on (loele, column 6 lines 31-46), the provisioned monitor maintaining separate counter logs for each provisioned customer (loele, column 6 lines 45-46) and a global counter log that accounts for all traffic seen on the link that the provisioned monitor is coupled to (loele, column 7 lines 37-64).

10. With regards to claim 12, loele teaches the gateways maintaining separate packet logs for each virtual monitor (loele, column 6 lines 31-32 and 45-46).
11. With regards to claim 15, loele teaches packet analysis for a particular virtual monitor happens by classifying packets based on addresses at the time of analysis (loele, column 6 lines 45-50).
12. With regards to claim 17, loele teaches the gateway being a clustered gateway and includes a plurality of probes and a cluster head, with the cluster head having a process to aggregate traffic from the probes and to produce separate counter logs for each provisioned customer and a global counter log, and produce detection heuristics (loele, Figure 1, column 6 lines 31-61).
13. With regards to claim 18, loele teaches the provisioned monitor including a virtual monitor for the physical link on which the provisioned monitor is deployed is configured to be an independent node in the network capable of issuing attack warnings and responses to attack queries independently from the virtual monitors of the provisioned monitor (loele, Figure 1, column 6 lines 31-61).
14. With regards to claim 19, loele teaches the provisioned monitor including all of the provisioned monitor's virtual monitors act as one node in the network (loele, Figure 1).
15. With regards to claim 20, loele teaches the provisioned monitor acts as an intermediary between virtual monitors and the rest of the network and includes a process to maintain communications with the control center and to reply to attack queries (loele, column 6 lines 31-61, column 7 lines 37-64, column 3 lines 15-57).

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16. With regards to claim 22, loele teaches a virtual monitor detecting an attack on a provisioned customer; information is conveyed both to the control center and to the hosting provider's management interface (loele, column 7 lines 37-64, column 10 lines 14-44).

17. With regards to claim 23, loele teaches the control center being adapted to distinguish an attack on a single provisioned customer and an attack on the links to which the monitor is deployed (loele, column 7 lines 37-64, column 10 lines 14-44).

18. With regards to claim 25, loele teaches the collection occurring at a gateway that passes network packets at the edge of the network (loele, Figure 1).

19. With regards to claims 31-33, loele teaches the communicating with a control center occurring on a downstream link basis over a dedicated hardened network to a control center that determines a response to the attack (loele, Figure 1, column 7 lines 37-64).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew L. Nalven whose telephone number is 571 272 3839. The examiner can normally be reached on Monday - Thursday 8-6, Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on 571 272 6962. The fax phone number for the organization where this application or proceeding is assigned is 571 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Andrew Nalven

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*Jaques Van Jaques*  
10/10/2010  
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